

Message

From: Badalamente, Mark [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4ED0B573C0F1410CA3B836DFDCDF189D-MBADALAM]
Sent: 1/25/2021 2:15:44 PM
To: Milton, Laura [Milton.Laura@epa.gov]
Subject: Re: Excepted Service Policy - Quals for Attorneys

Of course - we need you in the mix on this one for sure!

Sent from my iPhone

On Jan 25, 2021, at 8:03 AM, Milton, Laura <Milton.Laura@epa.gov> wrote:

Fyi, the regions are very concerned about the proposed Agency policy around excepted service appointments because the language includes GS-9 as the starting grade and the agency needs to finalize this asap because OPM has been looking for it and they are here this week. Our practice has always been to start attorneys at the GS-11 and I wasn't concerned about the continuation of this because of the "OR" qualifying language below. Anyway, Loretta is going to ask that I be able to work with Marvin on this for the next week or two. Is that okay? It's not a detail to policy!

(2) Attorneys

(i) To qualify at the GS-9 Grade level, applicants be duly licensed and authorized to practice as an attorney under the laws of any state, territory of the United States, or the District of Columbia, and be an active member of the bar in good standing.

(ii) To qualify at the GS-11 grade level, applicants must have an LL.M degree or at least one year of post J.D. legal experience with specialized experience at, or equivalent to, the GS-9 grade level. Examples of specialized experience include law clerk experience at the federal, state or local level, performing legal analysis and formulating recommendations to senior managers; composing pleadings, briefs, and other court documents involving legal issues in counseling or litigation.

OR

Applicants who meet the GS-9 requirement and in addition have superior law student activities while earning a JD degree. Superior law student activities include:

- <!--[if !supportLists]--><![endif]-->Academic standing in upper third of law school graduating class;
- <!--[if !supportLists]--><![endif]-->Work or achievement of significance on law school's law review;
- <!--[if !supportLists]--><![endif]-->Special high-level honors for academic excellence, such as election to Order of the Coif;

- <!--[if !supportLists]--><![endif]-->Winning of a moot court competition or membership on the moot court team representing the law school in competition with other law schools;
- <!--[if !supportLists]--><![endif]-->Full-time or continuous participation in a legal aid program or significant summer law office clerk experience; or
- <!--[if !supportLists]--><![endif]-->Other equivalent evidence of clearly superior achievement, as determined by the hiring office and documented in writing for the case file.

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From: Hunt, Loretta <Hunt.Loretta@epa.gov>
Sent: Friday, January 22, 2021 3:00 PM
To: Lattimore, Kraig <lattimore.kraig@epa.gov>; Milton, Laura <Milton.Laura@epa.gov>; Atkinson, Ryan <Atkinson.Ryan@epa.gov>; Taylor, Jeremy <Taylor.Jeremy@epa.gov>; Young, Debbie <young.debbie@epa.gov>
Cc: Engebretson, Lizabeth <Engebretson.Lizabeth@epa.gov>; Schulman, Marvin <Schulman.Marvin@epa.gov>; Chase, Twana <chase.twana@epa.gov>; Corcino-Woodruff, Ruth <CorcinoWoodruff.Ruth@epa.gov>
Subject: Excepted Service Policy - Quals for Attorneys
Importance: High

Everyone,

The regions have been particularly vocal about the proposed attorney quals in section XV of the draft policy. Kathie S. spoke on behalf of the regions but an excerpt of the comments are below:

- R1: None of us can recall have ever hired an attorney at the GS 9 level. We have always hired at the GS 11 level. There is significant concern about the pool of applicants at the GS 9 level , especially when we are also hiring law clerks at the GS 9 level. We are unsure why EPA would restrict its ability to use the hiring authority afforded by OPM.
- R2: "For an attorney or law clerk with a recently received Juris Doctor degree not to qualify for GS-11 would be, in the words of Region 2's Deputy Regional Counsel, Paul Simon, "totally inconsistent with longstanding practices of decades." Paul also stated that it would make it significantly more difficult to hire high caliber candidates. This is especially the case in areas such as ours, with a high cost of living, high income taxes, and a very competitive job market. Our concern extends to the proposed qualification requirements for grades above GS-11 as well; for instance requiring two years' experience before moving to GS-12."

While OPM does not establish quals for attorney positions, their guidance clearly states a JD is typically equivalent to a 9 *if qualifying on education alone*. Also, the policy doesn't preclude hiring at the GS-11 level, but more than a JD is required.

I asked Marvin Schulman to review and work with OECA, OGC and the SSCs on the law clerk and GS 9-15 attorney quals to validate what's in the draft or make necessary changes.

I have to stress the importance of putting this policy in place as soon as possible. OPM is about to ding the agency again for not having attorney quals in place as required by reg. I appreciate your assistance and cooperation.

Thanks.

Loretta L. Hunt

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